

AMENDED IN SENATE MAY 24, 2004
AMENDED IN SENATE MARCH 31, 2004

SENATE BILL

No. 1316

Introduced by Senator Alpert

February 17, 2004

An act to amend Sections 52052, 52054, 56157, 56366, 56366.1, 56366.5, and 56366.9 of, and to add Sections 49085, 56155.7, and ~~56157.5~~ 56366.10 to, the Education Code, and to amend Section 1501.1 of the Health and Safety Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1316, as amended, Alpert. Foster children: education.

~~(1) Existing~~

Existing law requires the California School Information Services program administrator to submit to the State Board of Education a plan to administer, coordinate, and manage the development and implementation of an electronic statewide school information system to address current problems of information exchange. Existing law requires the plan to prescribe the set of statewide data elements and codes to be implemented by the California School Information Services and requires these data elements and codes to comply with specified privacy provisions.

This bill would require the State Department of Education to ensure that the California School Information Services' system meets the needs of pupils in foster care and includes disaggregated data on pupils in foster care.

~~(2) Existing~~

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop an Academic Performance Index (API), to measure the performance of schools, especially the performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. Existing law requires the pupil data collected for the API to be disaggregated by special education status, English language learners, socioeconomic status, gender, and ethnic group.

Existing law establishes the Immediate Intervention/Underperforming Schools Program (II/USP), in which schools that are determined to be low-performing schools based on API results may participate. Schools that participate in the II/USP are required to develop an action plan to improve the academic performance of the schools' pupils. The action plan is required to consider disaggregated data regarding pupil achievement, including information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced-price meals, and pupils in numerically significant subgroups.

This bill would require pupil data collected for the API and data used for action plans to be disaggregated for foster ~~youth~~ children.

Existing law authorizes a school under the jurisdiction of a county board of education or a county superintendent of schools, a community day school, or an alternative school to receive an API score if the school has 11 or more valid test scores and the school chooses to receive an API score for a least three years.

This bill would also expand this authority for nonpublic, nonsectarian schools.

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop an alternative accountability system for schools with certain API scores and for certain other schools, including community day schools and alternative schools.

This bill would also require the superintendent to develop an alternative accountability system for nonpublic, nonsectarian schools.

~~(3) Existing~~

Existing law makes each school district, special education local plan area, or county office of education responsible for providing appropriate education to individuals with exceptional needs residing in



a licensed children's institution or foster family home located in the geographical area covered by the local plan. Existing law defines a licensed children's institution as a residential facility that is licensed, as specified, to provide nonmedical care to children, including individuals with exceptional needs.

This bill would prohibit a licensed children's institution and a residential care facility from requiring, as a condition of residency, that a child be identified as an individual with exceptional needs.

~~(4) Existing~~

Existing law makes each school district, special education local plan area, or county office of education responsible for providing appropriate education to individuals with exceptional needs residing in a licensed children's institution or foster family home located in the geographical area covered by the local plan. Existing law requires the school district, special education local plan area, or county office of education, in providing appropriate programs, to first consider services in programs operated by a public education agency. Under existing law, if those programs are not appropriate, special education and related services are required to be provided by contract with a nonpublic, nonsectarian school that is certified by the Superintendent of Public Instruction.

This bill would require a ~~school district, special education local plan area, or county office of education~~ local educational agency that has placed an individual with exceptional needs residing in a licensed children's institution or foster family home in a nonpublic, nonsectarian school to conduct an annual evaluation, through the individualized education program process, of whether the placement is the least restrictive environment for the individual. The bill would require the nonpublic, nonsectarian school to report to the local educational agency that made the placement, on a quarterly or trimester basis, as appropriate, the educational progress demonstrated by the individual with exceptional needs towards the attainment of the goals and objectives specified in the individual's individualized education program.

This bill would require a nonpublic, nonsectarian school that provides special education and related services to an individual with exceptional needs to certify in writing to the superintendent that the teachers at the school hold special education teaching credentials and that pupils have access to standards-based, core curriculum and the same instructional materials used by a school district that places an



~~individual with exceptional needs in the nonpublic, nonsectarian school.~~

~~(5) Existing~~

Existing law authorizes school districts, special education local plan areas, and county offices of education to enter into master contracts for the provision of special education and related services with nonpublic, nonsectarian schools or agencies, as defined, and requires the master contract to be developed in accordance with specified requirements, including, among others, that the master contract include a description of the process being utilized by the school district, county office of education, or special education local plan area to oversee and evaluate placements in nonpublic, nonsectarian schools.

This bill would require the local educational agency to conduct certain evaluations and determinations at least once every year, including, among others, to privately interview each pupil placed in a nonpublic, nonsectarian school. By imposing these additional duties on local educational agencies, the bill would impose a state-mandated local program.

~~This~~

The bill would, in addition, require the master contract to include that, with respect to a nonpublic, nonsectarian school, the school shall be part of the Public School Performance Accountability Program in the same manner as public schools and each pupil placed in the school shall be tested in accordance with that accountability program, and the school shall prepare a school accountability report card, as provided. The bill would require the test results to be reported by the nonpublic, nonsectarian school to the State Department of Education.

~~(6) Existing~~

Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified by the Superintendent of Public Instruction as meeting specified standards. Existing law sets forth the certification application process and procedures for the nonpublic, nonsectarian schools or agencies that seek certification and provides that the superintendent may certify a nonpublic, nonsectarian school or agency for a period of not longer than 4 years. Existing law requires that only those nonpublic, nonsectarian schools and agencies that provide special education that utilize staff who hold, or are receiving training under the supervision of staff who hold, a current valid California credential or license, as specified, may be certified.



This bill would instead provide that the superintendent may certify a nonpublic, nonsectarian school or agency for a period of not longer than 2 years, and would make related changes. The bill would require that only those nonpublic, nonsectarian schools and agencies that provide special education that utilize staff who hold, or are enrolled in training programs that lead to a credential or license under the direct supervision of a staff member who holds, a current valid California credential, license, or certificate of registration document, may be certified.

The bill would, in addition, prohibit the certification of a nonpublic, nonsectarian school or agency without the prior written approval from the local educational agency or agencies with which the nonpublic, nonsectarian school or agency plans to contract. To the extent this bill would impose additional duties on local educational agencies, the bill would impose a state-mandated local program.

This bill would require a nonpublic, nonsectarian school that provides special education and related services to an individual with exceptional needs to certify in writing to the superintendent that the teachers at the school hold valid special education teaching credentials and that the school will provide pupils with access to a core curriculum that is based on state-adopted standards and the same instructional materials used by at least one of the local educational agencies that places an individual with exceptional needs in the school.

Existing law authorizes the Superintendent of Public Instruction to monitor a nonpublic, nonsectarian school or agency onsite at any time without prior notice when there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child.

This bill would instead require the superintendent to monitor the facilities, the educational environment, and the quality of the educational program of an existing certified nonpublic, nonsectarian school or agency on a 3-year cycle, as provided. The bill would also require the superintendent, with respect to a nonpublic, nonsectarian school, to conduct an investigation, which is to include an unannounced onsite visit, when the superintendent receives evidence of a significant deficiency in the quality of educational services provided by the school.

Existing law requires the Superintendent of Public Instruction to charge a nonpublic, nonsectarian school or agency a reasonable fee for certification and requires the nonpublic, nonsectarian school or agency to pay the fee when it applies for certification and when it updates its



application for annual review by the superintendent. Existing law prescribes the base fee for these purposes based on the number of pupils.

This bill would increase the base fees.

~~Existing law requires, for purposes of certification of a nonpublic, nonsectarian school or agency that provides special education, at least one full-time person with a current valid California credential, license, or certificate of registration that is required in this or another state. Existing law requires that a nonpublic, nonsectarian school or agency that employs a person that holds a valid emergency credential document efforts of recruiting appropriately credentialed, licensed, or registered personnel, as a condition of renewing certification. Existing law requires a nonpublic, nonsectarian school or agency to provide written assurances that it meets standards relating to fire, health, sanitation, and building safety.~~

~~This bill would delete those provisions.~~

~~(7) Existing~~

Existing law requires a school district, special education local plan area, or county office of education, upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under contract, to either send a warrant within 45 days or notify the school or agency within 10 working days of the reason why payment will not be made.

This bill would provide that any educational funds received by a school district, special education local plan area, or county office of education for the costs of pupils placed with local educational agency for the educational costs of individuals with exceptional needs it has placed in nonpublic, nonsectarian schools are to be used solely for those purposes and not for the costs of a residential program.

~~(8) Existing~~

Existing law prohibits a licensed children's institution at which individuals with exceptional needs reside from requiring as a condition of residential placement that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or agency owned or operated by a licensed children's institution. Existing law provides that those services may only be provided if the special education local plan area determines that alternative educational programs are not available.

This bill would prohibit a licensed children's institution at which individuals with exceptional needs reside from requiring as a condition of residential placement that it provide the appropriate educational

programs to those individuals through a nonpublic, nonsectarian school or agency owned, operated by, or associated with, a licensed children's institution. The bill would provide that those services may only be provided if the special education local plan area determines that appropriate public alternative education programs are not available.

This bill would also make related changes and various technical, nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby finds and declares
2 the following:

3 (1) ~~The~~ According to recent reports by the Little Hoover
4 Commission and the American Institutes for Research, the
5 educational outcomes for our youth children while in foster care
6 are substandard and, in many cases, California's system does foster
7 care and educational systems do not provide the educational, life
8 skills, and employment supports and opportunities to ensure that
9 all foster youth children are able to successfully transition from
10 dependency to self-sufficiency. ~~Those foster youth that have been~~
11 ~~identified as individuals with exceptional needs face additional~~
12 ~~challenges.~~

13 (2) ~~Individuals with exceptional needs who have been placed~~
14 ~~in nonpublic schools are often not given the same educational~~
15 ~~opportunities and do not have access to the same caliber of~~
16 ~~instruction and instructional materials as pupils in public schools.~~



~~(3) In the 2002–03 fiscal year, California spent over \$2.2 billion on foster care.~~

~~(4) California’s foster care system recently failed a federal performance review and faces significant penalties if it does not adequately address deficiencies in the foster care system.~~

~~(5) Foster children that have been identified as requiring special education services, in order to benefit from their education, face extraordinary challenges.~~

(2) Pursuant to two recent reports, which were requested and funded by the Legislature and conducted by the American Institutes of Research, the subset of children in foster care who are also in special education and who have been placed in nonpublic schools do not always receive the same educational opportunities and often do not have access to the same caliber of instruction and instructional materials as individuals with exceptional needs in public schools.

(3) In the 2002–03 fiscal year, California spent over \$129 million on 4,700 pupils residing in licensed children’s institutions and placed in nonpublic schools to fund the provision of special education services by the nonpublic schools for this population.

(4) Approximately one-third of youth emancipating from foster care fail to complete high school and few a limited number enter college, although two-thirds express a desire to attend college. Of those who do complete high school, some pupils do not all of those pupils receive a grade-point average, which is required for admission to a higher education institution.

~~(6)–~~

(5) After emancipating from foster care, at least 25 percent experience homelessness, 33 percent receive welfare, 50 percent face unemployment, and approximately 25 percent are arrested and spend time in incarceration incarcerated. Some of these problems could be diminished by ensuring that youth in foster care, including those who have been identified as individuals with exceptional needs, also receive the services that will assist them to transition to financial independence.

~~(7)–~~

(6) Pupils in foster care are frequently moved to a different school, and often experience multiple placements, during each school year, slowing their educational progress.

1 (7) *Pupils in foster care lack parents to advocate for*
2 *appropriate educational placement and service, and rely on the*
3 *state to establish and monitor standards for curriculum,*
4 *instruction, and services.*

5 (8) California's current funding system for individuals with
6 exceptional needs in foster care provides fiscal incentives for
7 placement in a nonpublic school. These incentives may conflict
8 with the goal of giving individuals with exceptional needs access
9 to the least restrictive environment appropriate to their needs.
10 *According to the report of the American Institutes of Research,*
11 *California's current system of funding nonpublic school services*
12 *for children residing in licensed children's institutions is contrary*
13 *to federal law.*

14 ~~(9) According to a recent report based on a sample of cases,~~
15 ~~California's funding system also provides little incentive to school~~
16 ~~districts to control costs. California now spends between sixty-five~~
17 ~~thousand dollars (\$65,000) and eighty-five thousand dollars~~
18 ~~(\$85,000)~~

19 (9) *California's funding system also provides insufficient*
20 *incentives to school districts to control costs when a child residing*
21 *in a licensed children's institution is placed in a nonpublic school.*
22 *According to the report of the American Institutes of Research,*
23 *California now spends between sixty-five thousand dollars*
24 *(\$65,000) and one hundred fifty thousand dollars (\$150,000) per*
25 *child annually to house and educate a child in foster care residing*
26 *in a group home, the higher costs of which are incurred for those*
27 *placed in a nonpublic school.*

28 (10) State standards are substantially ~~weaker~~ *less*
29 *comprehensive* for nonpublic schools than the standards and
30 monitoring applied to California's public schools.

31 (11) Accountability for educational outcomes for pupils in
32 foster care is vague and the system for monitoring the educational
33 progress of pupils in foster care placed in nonpublic schools, *as*
34 *well as those in the regular public schools,* is inadequate.

35 (12) Foster ~~youth~~ *children* and other pupils who have been
36 identified as individuals with exceptional needs have the right to
37 the best educational placement, and in accordance with the federal
38 Individuals with Disabilities Education Act requirement for a free
39 appropriate public education that places pupils in the least

1 restrictive environment appropriate to their needs, whether that is
2 in a public school or a nonpublic school.

3 (b) It is therefore the intent of the Legislature to do the
4 following:

5 (1) Increase state and local accountability for individuals with
6 exceptional needs placed in nonpublic schools, including those
7 residing in foster care.

8 (2) Improve state and local monitoring of nonpublic schools.

9 (3) Ensure that foster ~~youth~~ *children* and individuals with
10 exceptional needs who are placed in nonpublic schools are
11 included in the state's testing system in order to monitor and
12 improve their educational outcomes.

13 (4) Include the nonpublic schools and individuals with
14 exceptional needs who reside in licensed children's institutions in
15 the special education Focused Monitoring and Technical
16 Assistance System at the state and local level.

17 (5) Require the State Department of Education to add
18 nonpublic schools to the Public School Accountability Act in
19 order to measure pupil performance at nonpublic schools.

20 (6) Create a funding structure that is neutral *in regard* to the
21 type of educational placement necessary and best suited for the
22 pupil and that allows public schools to access funding currently
23 available only for nonpublic schools and agencies in serving
24 individuals with exceptional needs in foster care.

25 SEC. 2. Section 49085 is added to the Education Code, to
26 read:

27 49085. The department shall ensure that the California School
28 Information Services system meets the needs of pupils in foster
29 care and includes disaggregated data on pupils in foster care.

30 SEC. 3. Section 52052 of the Education Code is amended to
31 read:

32 52052. (a) (1) By July 1, 1999, the Superintendent of Public
33 Instruction, with approval of the State Board of Education, shall
34 develop an Academic Performance Index (API), to measure the
35 performance of schools, especially the academic performance of
36 pupils, and to demonstrate comparable improvement in academic
37 achievement by all numerically significant ethnic and
38 socioeconomically disadvantaged subgroups within schools.

39 (2) For purposes of this section, a numerically significant
40 ethnic or socioeconomically disadvantaged subgroup is a



1 subgroup that constitutes at least 15 percent of a school's total
2 pupil population and consists of at least 30 pupils. An ethnic or
3 socioeconomically disadvantaged subgroup of at least 100 pupils
4 constitutes a numerically significant subgroup, even if the
5 subgroup does not constitute 15 percent of the total enrollment at
6 a school. For schools whose API scores are based on test scores of
7 no fewer than 11 and no more than 99 pupils, numerically
8 significant subgroups shall be defined by the Superintendent of
9 Public Instruction, with approval by the State Board of Education.

10 (3) The API shall consist of a variety of indicators currently
11 reported to the State Department of Education including, but not
12 limited to, the results of the achievement test administered
13 pursuant to Section 60640, attendance rates for pupils and
14 certificated school personnel for elementary schools, middle
15 schools, and secondary schools, and the graduation rates for pupils
16 in secondary schools.

17 (A) The pupil data collected for the API that comes from the
18 achievement test administered pursuant to Sections 60640 and
19 60644 and the high school exit examination administered pursuant
20 to Section 60851, when fully implemented, shall be disaggregated
21 by foster ~~youth~~ *children* status, special education status, English
22 language learners, socioeconomic status, gender and ethnic group.
23 Only the test scores of pupils who were counted as part of a school
24 district's enrollment in the October California Basic Educational
25 Data System's data collection for the current fiscal year and were
26 continuously enrolled during that year may be included in the test
27 results reported in the API. Results of the achievement test and
28 other tests specified in subdivision (b) shall constitute at least 60
29 percent of the value of the index.

30 (B) Before including high school graduation rates and
31 attendance rates in the index, the Superintendent of Public
32 Instruction shall determine the extent to which the data are
33 currently reported to the state and the accuracy of the data.

34 (C) If the Superintendent of Public Instruction determines that
35 accurate data for these indicators is not available, the
36 Superintendent of Public Instruction shall report to the Governor
37 and the Legislature by September 1, 1999, and recommend
38 necessary action to implement an accurate reporting system.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The assessment of the applied academic skills matrix test developed pursuant to Section 60604.

(2) The nationally normed test designated pursuant to Section 60642.

(3) The standards-based achievement tests provided for in Section 60642.5.

(4) The high school exit examination.

(c) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of ~~Section 52052~~, are making comparable improvement.

(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools must, at a minimum, meet their annual

1 API growth targets to be eligible for the Governor's Performance
2 Award Program as set forth in Section 52057. The State Board of
3 Education may establish additional criteria that schools must meet
4 to be eligible for the Governor's Performance Award Program.

5 (e) Beginning in June 2000, the API shall be used for both of
6 the following:

7 (1) Measuring the progress of schools selected for participation
8 in the Immediate Intervention/Underperforming Schools Program
9 pursuant to Section 52053.

10 (2) Ranking all public schools in the state for the purpose of the
11 High Achieving/Improving Schools Program pursuant to Section
12 52056.

13 (f) (1) A comprehensive high school, middle school, or
14 elementary school with 11 to 99 valid test scores of pupils who
15 were enrolled in a school within the same school district in the
16 prior fiscal year shall receive an API score with an asterisk that
17 indicates less statistical certainty than API scores based on 100 or
18 more test scores.

19 (2) A school under the jurisdiction of a county board of
20 education or a county superintendent of schools, a community day
21 school, *a nonpublic, nonsectarian school as identified in Section*
22 *56366*, or an alternative school, including continuation high
23 schools and opportunity schools, may receive an API score if the
24 school has 11 or more valid test scores and the school chooses to
25 receive an API score for at least three years.

26 (3) A school that participates in the Immediate
27 Intervention/Underperforming Schools Program described in
28 Section 52053 shall receive an API score for the duration of its
29 participation in that program, unless the Superintendent of Public
30 Instruction determines that an API score would be an invalid
31 measure of the school's performance for one or more of the
32 following reasons:

33 (A) Irregularities in testing procedures occurred.

34 (B) The data used to calculate the school's API score are not
35 representative of the pupil population at the school.

36 (C) Significant demographic changes in the school's pupil
37 population render year-to-year comparisons of pupil performance
38 invalid.

(D) The Department of Education discovers or receives information indicating that the integrity of the school's API score has been compromised.

(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(h) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 test scores contributing to the schools' API scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, *nonpublic, nonsectarian schools as identified in Section 56366*, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools.

SEC. 4. Section 52054 of the Education Code is amended to read:

52054. (a) Commencing in the 2001–02 fiscal year, by November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall do one of the following:

(1) Contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(2) Contract with an entity that has proven, successful expertise specific to the challenges inherent in high-priority schools. These entities may include, but are not limited to, the following:

(A) Institutions of higher education.

(B) County offices of education.

(C) School district personnel.

(b) The selected external evaluator or entity shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator or entity shall do all of the following:

1 (1) Inform the parents and legal guardians, in writing, that the
2 school has been selected to participate in the Immediate
3 Intervention/Underperforming Schools Program due to its below
4 average performance.

5 (2) Hold a public meeting at the school, in cooperation with the
6 principal, to which all parents and legal guardians of pupils in the
7 school receive a written invitation. The invitation to the meeting
8 may be combined with the written notice required by paragraph
9 (1).

10 (3) Solicit, at the public meeting, the recommendations and
11 opinions of the participating parents and legal guardians of pupils
12 in the school regarding actions that should be taken to improve the
13 performance of the school. These opinions and recommendations
14 shall be considered by the external evaluator or entity and the
15 community team in the development or modification of the action
16 plan pursuant to this section or Section 52054.3.

17 (4) Provide technical assistance to the schoolsite.

18 (5) Notify all parents and legal guardians of pupils in the school
19 of their opportunity to provide written recommendations of
20 actions that should be taken to improve the performance of the
21 school which shall be considered by the external evaluator or
22 entity and the community team in the development or modification
23 of the action plan pursuant to this section or Section 52054.3.
24 Notice required by this subdivision may be combined with the
25 written notice required by paragraph (1).

26 (c) By February 15 of the school year in which the school is
27 selected to participate, the selected external evaluator or entity, in
28 collaboration with the broad-based schoolsite and community
29 team selected pursuant to subdivision (a), shall complete a review
30 of the school that identifies weaknesses that contribute to the
31 school's below average performance, make recommendations for
32 improvement, and begin to develop an action plan to improve the
33 academic performance of the pupils enrolled at the school. The
34 action plan shall include percentage growth targets at least as high
35 as the annual growth targets adopted by the State Board of
36 Education pursuant to Section 52052. The action plan shall include
37 an expenditure plan and shall be of a scope that does not require
38 expenditure of funds in excess of those provided pursuant to this
39 article or otherwise available to the school. The action plan may

1 not be of a scope that requires reimbursement by the Commission
2 on State Mandates for its implementation.

3 (d) At a minimum, the action plan shall do all of the following:

4 (1) Review and include the school and district conditions
5 identified in the school accountability report card pursuant to
6 Section 33126.

7 (2) Identify the current barriers at the school and district toward
8 improvements in pupil achievement.

9 (3) Identify schoolwide and districtwide strategies to remove
10 these barriers.

11 (4) Review and include school and school district crime
12 statistics, in accordance with Section 628.5 of the Penal Code.

13 (5) Examine and consider disaggregated data regarding pupil
14 achievement and other indicators to consider whether all groups
15 and types of pupils make adequate progress toward short-term
16 growth targets and long-term performance goals. The
17 disaggregated data to be included and considered by the plan shall,
18 at a minimum, provide information regarding the achievement of
19 foster-~~youth~~ children, English language learners, pupils with
20 exceptional needs, pupils who qualify for free and reduced price
21 meals, and pupils in numerically significant subgroups.

22 (6) Set short-term academic objectives pursuant to Section
23 52052 for a two-year period that will allow the school to make
24 adequate progress toward the growth targets established for each
25 participating school for pupil achievement as measured by all of
26 the following to the extent that the data is available for the school:

27 (A) The achievement test administered pursuant to Section
28 60640.

29 (B) Graduation rates for grades 7 to 12, inclusive.

30 (C) Attendance rates for pupils and school personnel for
31 elementary, middle, and secondary schools.

32 (D) Any other indicators approved by the State Board of
33 Education.

34 (e) The school action plan shall focus on improving pupil
35 academic performance, improving the involvement of parents and
36 guardians, improving the effective and efficient allocation of
37 resources and management of the school, and identifying and
38 developing solutions that take into account the underlying causes
39 for low performance by pupils.

1 (f) The team, in the development of the action plan, shall
2 consult with the exclusive representatives of employee
3 organizations, where they exist.

4 (g) The school action plan may propose to increase the number
5 of instructional days offered at the schoolsite and also may propose
6 to increase up to a full 12 months the amount of time for which
7 certificated employees are contracted, if all of the following
8 conditions are met:

9 (1) Provisions of the plan proposed pursuant to this subdivision
10 shall not violate current applicable collective bargaining
11 agreements.

12 (2) An agreement is reached with the exclusive representative
13 concerning staffing specifically to accommodate the extended
14 school year or 12-month contract.

15 (h) The team, in the development of the action plan, shall
16 consult with the exclusive representatives of employee
17 organizations, where they exist.

18 (i) Upon its completion, the action plan shall be submitted to
19 the governing board of the school districts for its approval at a
20 regularly scheduled public meeting. After the plan is approved, but
21 no later than May 15 of the year that follows the year the school
22 is selected to participate, the plan shall be submitted to the
23 Superintendent of Public Instruction with a request for funding in
24 the form prescribed by the Superintendent of Public Instruction,
25 who shall review the school action plan and recommend approval
26 or disapproval of the school's request for funding to the State
27 Board of Education.

28 (j) Not later than July 15 of the year next following the year in
29 which a school is selected for participation, the State Board of
30 Education shall review and approve or disapprove the school's
31 request for funding, based on the recommendation of the
32 Superintendent of Public Instruction. Within 30 days of the State
33 Board of Education's review, the Superintendent of Public
34 Instruction shall notify the affected school districts of the state of
35 the board's action regarding the request for funding. In
36 conjunction with its approval of a request for funding to
37 implement a school's action plan, the State Board of Education
38 may, at the request of the governing board of the school district or
39 the county board of education for a school under its jurisdiction,
40 waive all or any part of any provision of this code, or any

1 regulation adopted by the State Board of Education, controlling
2 any of the programs listed in clause (i) of subparagraph (B) of
3 paragraph (1) of subdivision (a) of Section 54761 and Section
4 64000 if the waiver does not result in a decrease in the instructional
5 time otherwise required by law or regulation or an increase in state
6 costs and is determined to be consistent with subdivision (a) of
7 Section 46300.

8 SEC. 5. Section 56155.7 is added to the Education Code, to
9 read:

10 56155.7. A licensed children's institution may not require that
11 a child be identified as an individual with exceptional needs as a
12 condition of residency.

13 SEC. 6. Section 56157 of the Education Code is amended to
14 read:

15 56157. (a) In providing appropriate programs to individuals
16 with exceptional needs residing in licensed children's institutions
17 or foster family homes, the district, special education local plan
18 area, or county office shall first consider services in programs
19 operated by public education agencies for individuals with
20 exceptional needs. If those programs are not appropriate, special
21 education and related services shall be provided by contract with
22 a nonpublic, nonsectarian school.

23 (b) If special education and related services are provided by
24 contract with a nonpublic, nonsectarian school, or with a licensed
25 children's institution under this article, the terms of the contract
26 shall be developed in accordance with the provisions of Section
27 56366.

28 (c) If an individual with exceptional needs residing in a
29 licensed children's institution or foster family home is placed in a
30 nonpublic, nonsectarian school, the ~~district, special education~~
31 ~~local plan area, or county office~~ *local educational agency* that
32 made the placement shall conduct an annual evaluation, through
33 the individualized education program process, of whether the
34 placement is the least restrictive environment for the individual.

35 (d) *If an individual with exceptional needs residing in a*
36 *licensed children's institution or foster family home is placed in a*
37 *nonpublic, nonsectarian school, the nonpublic, nonsectarian*
38 *school shall report to the local educational agency that made the*
39 *placement, on a quarterly or trimester basis, as appropriate, the*
40 *educational progress demonstrated by the individual with*

1 *exceptional needs towards the attainment of the goals and*
2 *objectives specified in the individual's individualized education*
3 *program.*

4 ~~SEC. 7. Section 56157.5 is added to the Education Code, to~~
5 ~~read:~~

6 ~~56157.5. In addition to the certification requirements set forth~~
7 ~~in Sections 56366 and 56366.1, a nonpublic, nonsectarian school~~
8 ~~that provides special education and related services to an~~
9 ~~individual with exceptional needs shall certify in writing to the~~
10 ~~superintendent that it meets all of the following requirements:~~

11 ~~(a) The teachers at the school hold special education teaching~~
12 ~~credentials for the subjects they teach.~~

13 ~~(b) The pupils have access to standards-based, core curriculum~~
14 ~~and the same instructional materials used by a district that places~~
15 ~~an individual with exceptional needs in the nonpublic,~~
16 ~~nonsectarian school.~~

17 ~~SEC. 8.—~~

18 ~~SEC. 7. Section 56366 of the Education Code is amended to~~
19 ~~read:~~

20 ~~56366. It is the intent of the Legislature that the role of a~~
21 ~~nonpublic, nonsectarian school or agency shall be maintained and~~
22 ~~continued as an alternative special education service available to~~
23 ~~districts, special education local plan areas, county offices, and~~
24 ~~local educational agencies and parents.~~

25 ~~(a) The master contract for nonpublic, nonsectarian school or~~
26 ~~agency services shall be developed in accordance with the~~
27 ~~following provisions:~~

28 ~~(1) The master contract shall specify the general administrative~~
29 ~~and financial agreements between the nonpublic, nonsectarian~~
30 ~~school or agency and the district, special education local plan area,~~
31 ~~or county office local educational agency to provide the special~~
32 ~~education and designated instruction and services, as well as~~
33 ~~transportation specified in the pupil's individualized education~~
34 ~~program. The administrative provisions of the contract also shall~~
35 ~~include procedures for recordkeeping and documentation, and the~~
36 ~~maintenance of school records by the contracting district, special~~
37 ~~education local plan area, or county office local educational~~
38 ~~agency to ensure that appropriate high school graduation credit is~~
39 ~~received by the pupil. The contract may allow for partial or~~
40 ~~full-time attendance at the nonpublic, nonsectarian school.~~

(2) (A) The master contract shall include an individual services agreement for each pupil placed by a ~~district, special education local plan area, or county office~~ *local educational agency* that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

(B) The master contract shall include a description of the process being utilized by the ~~district, county office, or special education local plan area~~ *local educational agency* to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether the pupil is making appropriate educational progress. *At least once every year, the local educational agency shall do all of the following:*

(i) *Evaluate the educational progress of each pupil placed in a nonpublic, nonsectarian school.*

(ii) *Privately interview each pupil placed in a nonpublic, nonsectarian school.*

(iii) *Determine whether changes to the pupil's individualized education program are necessary.*

(iv) *Evaluate whether or not the needs of the pupil continue to be best met at the nonpublic, nonsectarian school and whether the pupil may be transitioned to a public school setting.*

(3) Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract or individual services agreement, the parent, the nonpublic, nonsectarian school or agency, or the ~~district, special education local plan area, or county office~~ *local educational agency* may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the ~~district, special education local plan area, or county office~~ *local educational agency*.

(4) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(5) The nonpublic, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the ~~district, special education local plan area, or county office~~ agree *local educational agency* otherwise in the contract or ~~individualized individual~~ services agreement.

(6) Related services provided pursuant to a nonpublic, nonsectarian agency master contract shall only be provided during the period of the child's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(7) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services as defined by Section 46307 for purposes of submitting a warrant for tuition to each contracting ~~district, special education local plan area, or county office~~ *local educational agency*.

(8) With respect to a nonpublic, nonsectarian school, the school shall be part of the Public School Performance Accountability Program established by Article 2 (commencing with Section 52051) of Chapter 6.1 of Part 28 in the same manner as public schools and each pupil placed in the nonpublic, nonsectarian school by a ~~district, special education local plan area, or county office~~ *local educational agency* shall be tested in accordance with that accountability program. The test results shall be reported by the nonpublic, nonsectarian school to the department.

(9) With respect to a nonpublic, nonsectarian school, the school shall prepare a school accountability report card in accordance with Section 33126.

(b) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a ~~district, special education local plan area, or county office~~ *for local educational agency* for pupils enrolled in the nonpublic,

1 nonsectarian school or agency unless provided directly or
2 subcontracted by that nonpublic, nonsectarian school or agency.

3 The superintendent shall withhold 20 percent of the amount
4 apportioned to a district or county office for costs related to the
5 provision of nonpublic, nonsectarian school or agency placements
6 if the superintendent finds that the local educational agency is in
7 noncompliance with this subdivision. This amount shall be
8 withheld from the apportionments in the fiscal year following the
9 superintendent's finding of noncompliance. The superintendent
10 shall take other appropriate actions to prevent noncompliant
11 practices from occurring and report to the Legislature on those
12 actions.

13 (c) (1) If the pupil is enrolled in the nonpublic, nonsectarian
14 school or agency with the approval of the ~~district, special~~
15 ~~education local plan area, or county office~~ *local educational*
16 *agency* prior to agreement to a contract or individual services
17 agreement, the ~~district, special education local plan area, or county~~
18 ~~office~~ *local educational agency* shall issue a warrant, upon
19 submission of an attendance report and claim, for an amount equal
20 to the number of creditable days of attendance at the per diem
21 tuition rate agreed upon prior to the enrollment of the pupil. This
22 provision shall be allowed for 90 days during which time the
23 contract shall be consummated.

24 (2) If after 60 days the master contract or individual services
25 agreement has not been finalized as prescribed in paragraph (1) of
26 subdivision (a), either party may appeal to the county
27 superintendent of schools, if the county superintendent is not
28 participating in the local plan involved in the nonpublic,
29 nonsectarian school or agency contract, or the superintendent, if
30 the county superintendent is participating in the local plan
31 involved in the contract, to negotiate the contract. Within 30 days
32 of receipt of this appeal, the county superintendent or the
33 superintendent, or his or her designee, shall mediate the
34 formulation of a contract which shall be binding upon both parties.

35 (d) A master contract for special education and related services
36 provided by a nonpublic, nonsectarian school or agency may not
37 be authorized under this part, unless the school or agency has been
38 certified as meeting those standards relating to the required special
39 education and specified related services and facilities for
40 individuals with exceptional needs. The certification shall result

1 in the ~~school's or agency's~~ *school or agency* receiving approval to
2 educate pupils under this part for a period no longer than two years
3 from the date of the approval.

4 (e) By September 30, 1998, the procedures, methods, and
5 regulations for the purposes of contracting for nonpublic,
6 nonsectarian school and agency services pursuant to this section
7 and for reimbursement pursuant to Sections 56836.16 and
8 56836.20 shall be developed by the superintendent in consultation
9 with statewide organizations representing providers of special
10 education and designated instruction and services. The regulations
11 shall be established by rules and regulations issued by the board.

12 ~~SEC. 9.—~~

13 SEC. 8. Section 56366.1 of the Education Code is amended to
14 read:

15 56366.1. (a) A nonpublic, nonsectarian school or agency that
16 seeks certification shall file an application with the superintendent
17 on forms provided by the department and include the following
18 information on the application:

19 (1) A description of the special education and designated
20 instruction and services provided to individuals with exceptional
21 needs if the application is for nonpublic, nonsectarian school
22 certification.

23 (2) A description of the designated instruction and services
24 provided to individuals with exceptional needs if the application
25 is for nonpublic, nonsectarian agency certification.

26 (3) A list of appropriately qualified staff, a description of the
27 credential, license, or registration that qualifies each staff member
28 ~~to render~~ *rendering* special education or designated instruction and
29 services *to do so*, and copies of their credentials, licenses, or
30 certificates of registration with the appropriate state or national
31 organization that has established standards for the service
32 rendered.

33 (4) An annual operating budget.

34 (5) Affidavits and assurances necessary to comply with all
35 applicable federal, state, and local laws and regulations which
36 include criminal record summaries required of all nonpublic
37 school or agency personnel having contact with minor children
38 under Section 44237.

39 (b) If the applicant operates a facility or program on more than
40 one site, each site shall be certified.

1 (c) If the applicant is part of a larger program or facility on the
2 same site, the superintendent shall consider the effect of the total
3 program on the applicant. A copy of the policies and standards for
4 the nonpublic, nonsectarian school or agency and the larger
5 program shall be available to the superintendent.

6 (d) Prior to certification, the superintendent shall conduct an
7 onsite review of the facility and program for which the applicant
8 seeks certification. The superintendent may be assisted by
9 representatives of the special education local plan area in which the
10 applicant is located and a nonpublic, nonsectarian school or
11 agency representative who does not have a conflict of interest with
12 the applicant. The superintendent shall conduct an additional
13 onsite review of the facility and program within two years of the
14 certification effective date, unless the superintendent
15 conditionally certifies the school or agency or unless the
16 superintendent receives a formal complaint against the school or
17 agency. In the latter two cases, the superintendent shall conduct an
18 onsite review at least annually.

19 (e) The superintendent shall make a determination on an
20 application within 120 days of receipt of the application and shall
21 certify, conditionally certify, or deny certification to the applicant.
22 If the superintendent fails to take one of these actions within 120
23 days, the applicant is automatically granted conditional
24 certification for a period terminating on August 31, of the current
25 school year. If certification is denied, the superintendent shall
26 provide reasons for the denial. The superintendent may certify the
27 school or agency for a period of not longer than two years.

28 (f) (1) Certification becomes effective on the date the
29 nonpublic, nonsectarian school or agency meets all the application
30 requirements and is approved by the superintendent. Certification
31 may be retroactive if the school or agency met all the requirements
32 of this section on the date the retroactive certification is effective.
33 Certification expires on December 31 of the terminating year.

34 (2) *Notwithstanding paragraph (1), a nonpublic, nonsectarian*
35 *school or agency shall not be certified without the prior written*
36 *approval from the local educational agency or local educational*
37 *agencies with which the nonpublic, nonsectarian school or agency*
38 *plans to contract. The written approval shall include confirmation*
39 *that the local educational agency intends to contract with the*

1 *prospective nonpublic, nonsectarian school or agency to provide*
2 *special education and related services for its pupils.*

3 (g) The superintendent shall annually review the certification
4 of each nonpublic, nonsectarian school and agency. For this
5 purpose, a certified school or agency shall annually update its
6 application between August 1 and October 31, unless the board
7 grants a waiver pursuant to Section 56101. The superintendent
8 may conduct an onsite review as part of the annual review.

9 ~~(h) The superintendent may monitor a nonpublic, nonsectarian~~
10 ~~school or agency onsite at any time without prior notice when there~~
11 ~~is substantial reason to believe that there is an immediate danger~~
12 ~~to the health, safety, or welfare of a child. The superintendent shall~~
13 ~~document the concern and submit it to the nonpublic, nonsectarian~~
14 ~~school or agency at the time of the onsite monitoring. The~~
15 ~~superintendent shall require a written response to any~~
16 ~~noncompliance or deficiency found.~~

17 (h) (1) *The superintendent shall monitor the facilities, the*
18 *educational environment, and the quality of the educational*
19 *program, including the teaching staff, the credentials authorizing*
20 *service, the standards-based core curriculum being employed, and*
21 *the standard focused instructional materials used, of an existing*
22 *certified nonpublic, nonsectarian school or agency on a three-year*
23 *cycle, as follows:*

24 (A) *The nonpublic, nonsectarian school or agency shall*
25 *complete a self-review in year one.*

26 (B) *The superintendent shall conduct an onsite review of the*
27 *nonpublic, nonsectarian school or agency in year two.*

28 (C) *The superintendent shall conduct a followup visit to the*
29 *nonpublic, nonsectarian school or agency in year three.*

30 (2) *With respect to a nonpublic, nonsectarian school, the*
31 *superintendent shall conduct an investigation, which shall include*
32 *an unannounced onsite visit, if the superintendent receives*
33 *evidence of a significant deficiency in the quality of educational*
34 *services provided by the nonpublic, nonsectarian school. The*
35 *superintendent shall document the complaint and the results of the*
36 *investigation and shall provide copies of the documentation to the*
37 *complainant, the nonpublic, nonsectarian school, and the*
38 *department.*

39 (i) (1) *Notwithstanding any other provision of law, the*
40 *superintendent may not certify a nonpublic, nonsectarian school*

1 or agency that proposes to initiate or expand services to pupils
2 currently educated in the immediate prior fiscal year in a juvenile
3 court program, community school pursuant to Section 56150, or
4 other nonspecial education program, including independent study
5 or adult school, or both, unless the nonpublic, nonsectarian school
6 or agency notifies the county superintendent of schools and the
7 special education local plan area in which the proposed new or
8 expanded nonpublic, nonsectarian school or agency is located of
9 its intent to seek certification.

10 (2) The notification shall occur no later than the December 1
11 prior to the new fiscal year in which the proposed or expanding
12 school or agency intends to initiate services. The notice shall
13 include the following:

14 (A) The specific date upon which the proposed nonpublic,
15 nonsectarian school or agency is to be established.

16 (B) The location of the proposed program or facility.

17 (C) The number of pupils proposed for services, the number of
18 pupils currently served in the juvenile court, community school,
19 or other nonspecial education program, the current school services
20 including special education and related services provided for these
21 pupils, and the specific program of special education and related
22 services to be provided under the proposed program.

23 (D) The reason for the proposed change in services.

24 (E) The number of staff that will provide special education and
25 designated instruction and services and hold a current valid
26 California credential or license in the service rendered or
27 certificate of registration to provide occupational therapy.

28 (3) In addition to the requirements in subdivisions (a) through
29 (e), inclusive, the superintendent shall require and consider the
30 following in determining whether to certify a nonpublic,
31 nonsectarian school or agency as described in this subdivision:

32 (A) A complete statement of the information required as part
33 of the notice under paragraph (1).

34 (B) Documentation of the steps taken in preparation for the
35 conversion to a nonpublic, nonsectarian school or agency,
36 including information related to changes in the population to be
37 served and the services to be provided pursuant to each pupil's
38 individualized education program.

39 (4) Notwithstanding any other provision of law, the
40 certification becomes effective no earlier than July 1, if the school

or agency provided the notification required pursuant to paragraph (1).

(j) The school or agency shall be charged a reasonable fee for certification. The superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

(1) 1– 5 pupils	\$ 150
	300
(2) 6–10 pupils	250
	500
(3) 11–24 pupils	500
	1,000
(4) 25–75 pupils	750
	1,500
(5) 76 pupils and over	1,000
	2,000

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual review by the superintendent. The superintendent shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the superintendent.

(k) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who hold, or are enrolled in training programs that lead to a credential or license authorizing the holder to ~~provide services~~ *render service* to individuals with exceptional needs and are receiving training under the direct supervision of a staff member who holds a current valid California credential , license, or certificate of registration document in the service rendered shall be eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to

1 render special education and related services as required by that
2 state shall be eligible to be certified.

3 (2) Nothing in this subdivision restricts student teachers,
4 interns, or other staff who are enrolled in training programs that
5 lead to a license or credential that authorize the holder to render
6 services to special education pupils and who are under the direct
7 supervision of a staff member who holds a current valid California
8 credential, license, or certificate of registration document.

9 (3) A nonpublic, nonsectarian school or agency that employs
10 only persons who hold a valid California credential authorizing
11 substitute teaching pursuant to Section 56060 shall not be
12 certified. *At least one full-time person with a current valid*
13 *California credential, license, or certificate of registration in the*
14 *area of service to be rendered, or a current valid credential,*
15 *license, or certificate of registration for appropriate special*
16 *education and related services rendered that is required in another*
17 *state, shall be required for purposes of certification under*
18 *subdivision (d) of Section 56366.*

19 (4) *A nonpublic, nonsectarian school or agency that employs*
20 *persons holding a valid emergency credential shall document*
21 *efforts of recruiting appropriately credentialed, licensed, or*
22 *registered personnel for the special education and related services*
23 *rendered as a condition of renewing certification.*

24 (5) *The State Board of Education shall issue regulations to*
25 *implement this subdivision. The regulations shall be developed by*
26 *the superintendent, in collaboration with the Commission on*
27 *Teacher Credentialing and other public agencies responsible for*
28 *issuing licenses or certificates of registration to individuals*
29 *providing designated instruction and services to individuals with*
30 *exceptional needs. The regulations also shall be developed in*
31 *consultation with statewide organizations representing public and*
32 *nonpublic, nonsectarian schools or agencies that provide special*
33 *education and designated instruction and services. The*
34 *regulations shall include, but shall not be necessarily limited to,*
35 *all of the following:*

36 (A) *Requirements for minimum personnel qualifications for*
37 *credentials to provide special education to individuals with*
38 *exceptional needs issued by the Commission on Teacher*
39 *Credentialing pursuant to this code and applicable federal laws.*



1 (B) Requirements for minimum personnel qualifications for
2 licenses or certifications of registration to provide designated
3 instruction and services to individuals with exceptional needs
4 issued by the California Board of Medical Quality Assurance, the
5 Board of Behavioral Science Examiners, the Board of Consumer
6 Affairs, and other state licensure agencies that are authorized
7 under the Business and Professions Code to grant licenses or
8 certificates of registration that may be applicable to the provision
9 of designated instruction and services to individuals with
10 exceptional needs.

11 (C) Requirements for personnel who are not licensed or
12 credentialed to provide special education or designated
13 instruction and services to pupils under the supervision of a
14 credentialed or licensed professional in the service rendered,
15 including direct and nondirect supervision requirements
16 established by this code and the Business and Professions Code,
17 and related regulations.

18 (D) Requirements for the certification of nonpublic,
19 nonsectarian schools and agencies to provide individual and
20 group designated instruction and services to individuals with
21 exceptional needs.

22 (1) The superintendent shall establish guidelines for the
23 implementation of subdivision (a) in consultation with statewide
24 organizations representing providers of special education and
25 designated instruction and services.

26 (m) (1) The superintendent shall, in consultation with
27 statewide organizations representing providers of special
28 education and designated instruction and services, develop the
29 procedures, methods, and areas of certification, including, but not
30 limited to, the following:

31 (A) Information required for purposes of the application
32 specified in subdivision (a).

33 (B) Procedures for conducting onsite reviews of the nonpublic,
34 nonsectarian school or agency program.

35 (C) Provisions specific to minimum staff qualifications to
36 provide special education and designated instruction and services
37 that are required for certification.

38 (D) Provisions specific to the provision of special education
39 and related services to individuals with exceptional needs from
40 birth to preschool.

(2) *The board shall issue as rules and regulations the procedures, methods, and areas of certification developed pursuant to paragraph (1).*

(n) *In addition to meeting the standards adopted by the board, a nonpublic, nonsectarian school or agency shall provide written assurances that it meets all applicable standards relating to fire, health, sanitation, and building safety.*

~~SEC. 10.—~~

SEC. 9. Section 56366.5 of the Education Code is amended to read:

56366.5. (a) Upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under a contract entered into pursuant to Sections 56365 and 56366, the ~~district, special education local plan area, or county office~~ shall *local educational agency* shall either (1) send a warrant for the amount requested within 45 days, or (2) notify the nonpublic, nonsectarian school within 10 working days of any reason why the requested payment shall not be paid.

(b) If the ~~district, special education local plan area, or county office~~ *local educational agency* fails to comply with subdivision (a), the nonpublic, nonsectarian school may require the ~~district, special education local plan area, or county office~~ *local educational agency* to pay an additional amount of 1½ percent of the unpaid balance per month until full payment is made. The ~~district, special education local plan area, or county office~~ *local educational agency* may not claim reimbursement from the state for ~~such~~ *the* additional amount pursuant to any provision of law, including any provision contained in Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

(c) Any educational funds received by a ~~district, special education local plan area, or county office~~ *for the costs of pupils placed with local educational agency for the educational costs of individuals with exceptional needs it has placed in* nonpublic, nonsectarian schools shall be used solely for those purposes and not for the costs of a residential program.

~~SEC. 11.—~~

SEC. 10. Section 56366.9 of the Education Code is amended to read:

56366.9. A licensed children's institution at which individuals with exceptional needs reside shall not require as a condition of residential placement that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or agency owned, operated by, or associated with, a licensed children's institution. Those services may only be provided if the special education local plan area determines that appropriate public alternative educational programs are not available.

SEC. 11. Section 56366.10 is added to the Education Code, to read:

56366.10. In addition to the certification requirements set forth in Sections 56366 and 56366.1, a nonpublic, nonsectarian school that provides services to an individual with exceptional needs shall certify in writing to the superintendent that it meets all of the following requirements:

(a) The teachers at the nonpublic, nonsectarian school hold valid special education teaching credentials authorizing service for the disabling conditions of individuals with exceptional needs enrolled in the nonpublic, nonsectarian school.

(b) The nonpublic, nonsectarian school will provide pupils with access to a core curriculum that is based on state-adopted standards and the same instructional materials used by at least one of the local educational agencies that places individuals with exceptional needs in the nonpublic, nonsectarian school.

SEC. 12. Section 1501.1 of the Health and Safety Code is amended to read:

1501.1. (a) It is the policy of the state to facilitate the proper placement of every child in residential care facilities where the placement is in the best interests of the child. A county may require placement or licensing agencies, or both placement and licensing agencies, to actively seek out-of-home care facilities capable of meeting the varied needs of the child. Therefore, in placing children in out-of-home care, particular attention should be given to the individual child's needs, the ability of the facility to meet those needs, the needs of other children in the facility, the licensing requirements of the facility as determined by the licensing agency, and the impact of the placement on the family reunification plan.

(b) Pursuant to this section, children with varying designations and varying needs, except as provided by statute, may be placed

1 in the same facility provided the facility is licensed, complies with
2 all licensing requirements relevant to the protection of the child,
3 and has a special permit, if necessary, to meet the needs of each
4 child so placed. A facility may not require, as a condition of
5 placement, that a child be identified as an individual with
6 exceptional needs as defined by Section 56026 of the Education
7 Code.

8 (c) Neither the requirement for any license nor any regulation
9 shall restrict the implementation of the provisions of this section.
10 Implementation of this section does not obviate the requirement
11 for a facility to be licensed by the department.

12 (d) Pursuant to this section, children with varying designations
13 and varying needs, except as provided by statute, may be placed
14 in the same licensed foster family home or with a foster family
15 agency for subsequent placement in a certified family home.
16 Children with developmental disabilities, mental disorders, or
17 physical disabilities may be placed in licensed foster family homes
18 or certified family homes, provided that an appraisal of the child's
19 needs and the ability of the receiving home to meet those needs is
20 made jointly by the placement agency and the licensee in the case
21 of licensed foster family homes or the placement agency and the
22 foster family agency in the case of certified family homes, and is
23 followed by written confirmation prior to placement. The
24 appraisal shall confirm that the placement poses no threat to any
25 child in the home.

26 For purposes of this chapter, the placing of children by foster
27 family agencies shall be referred to as "subsequent placement" to
28 distinguish the activity from the placing by public agencies.

29 *SEC. 13. Notwithstanding Section 17610 of the Government*
30 *Code, if the Commission on State Mandates determines that this*
31 *act contains costs mandated by the state, reimbursement to local*
32 *agencies and school districts for those costs shall be made*
33 *pursuant to Part 7 (commencing with Section 17500) of Division*
34 *4 of Title 2 of the Government Code. If the statewide cost of the*
35 *claim for reimbursement does not exceed one million dollars*
36 *(\$1,000,000), reimbursement shall be made from the State*
37 *Mandates Claims Fund.*